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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,976	08/21/2001	Stephen B. Auger	67233-011	3525

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EXAMINER

EINSMANN, MARGARET V

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/932,976

Applicant(s)

AUGER, STEPHEN B.

Examiner

Margaret Einsmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 57-120 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 57-120 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 10/24/03 has been entered.

The pending claims are claims 57-120. The cancellation of all of the pending claims has mooted the rejections of record.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 57-119 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no basis in the disclosure for he component (b) as now claimed, the oxidizing agent being tannic acid or sodium hydroxide. Applicant has not pointed to basis for this insertion and the examiner cannot

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find it in the specification. The entire specification is directed to an oxidizing agent being a peroxide. Applicant has provided 25 examples of the invention. All use hydrogen peroxide or sodium peroxide as the oxidizing agent. Regarding tannic acid, the examiner cannot find it disclosed in the originally filed specification. Regarding sodium hydroxide, page 6 line 21 states, "The oxygen source may include a hydroxide such as sodium hydroxide." The antecedent basis for "oxygen source" in that sentence is "a peroxide" on line 20. In other words, the composition which has a peroxide as the oxygen source may further include sodium hydroxide. Sodium hydroxide is not the oxidizing agent. Applicant states in several places that the oxygen source is preferably a peroxide. See page 3 line 22, page 6 line 20, page 9 lines 18-20, page 13 lines 21-24, page 15 lines 18-19.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 120 is rejected under 35 U.S.C. 102(b) as being anticipated by Dombay, US 3,554,785.

Example 4 discloses a process for treating teak with a kit as claimed in order to obtain a color on the wood. The kit comprises a solution A which contains the metal salt cupric sulfate as well as hydrochloric acid. The composition is diluted with water and applied to the wood. Thereafter the wood is dried. The wood is then treated with a

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second aqueous solution which contains hydrogen peroxide. See col 3 lines 19-25.

The wood is then treated with a nitrocellulose lacquer (sealant) as claimed. This method takes place at room temperature. Example 5 discloses treating wood with a first composition containing potassium permanganate, wherein the composition is diluted with water. After drying the wood, the wood is treated with a hypochlorite composition and then with a solution of hydrogen peroxide. Therefore, the process as claimed is anticipated.

Claim 120 is rejected under 35 U.S.C. 102(b) as being anticipated by Matsushita, JP 60-250906. See English translation.

A process of bleaching wood to impart a light color thereto is taught whereby an aqueous solution of a metal salt selected from cobalt or nickel nitrate, potassium carbonate, calcium carbonate or sodium carbonate is applied to a board, the board is cured and then an aqueous solution of hydrogen peroxide is applied. The metal salt is applied to activate the hydrogen peroxide, which is a reaction process. See the English translation, pages 1-4. Accordingly Matsushita anticipates claim 120.

Claim 120 is rejected under 35 U.S.C. 102(b) as being anticipated by Bures, CS145495. See English translation. A process of staining any kind of wood is taught (p 7 last paragraph) whereby three solutions are applied sequentially to wood. Both the first and last solutions contain metal salts and/or bleaching agents. Page three states that the first step is to treat the wood with at least one salt or at least one peroxide oxidizing agent, and the third step treats with at least one complex of copper, silver, nickel or permanganate. Permanganate is a bleaching agent. Page 5 first paragraph

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states that the solution of the first step uses a mixture of salts, including alkaline metals and peroxides, hyperoxides, or peracids. The latter three are all oxidizing agents. The wood may be dried between applications (p 7 second paragraph). Example 1 on page 8 discloses treating dried birch with an aqueous solution comprising hydrogen peroxide and then with an aqueous solution of silver nitrate. In example 2 on page 9, both the first and third solutions contain both bleach and a metal salt; the first solution contains the bleach ammonium persulfate and the metal salt, copper sulfate in an aqueous alcohol solution; the second solution contains potassium permanganate, which is both a bleach and an oxidizing agent, and two other metal salts, zinc sulfate and sodium aluminate. See also claim 1 on page 11 which claims treating wood with a peroxide or peracid in a mixed solvent in a first step, and treating with a compound of silver, copper, nickel or permanganate (bleaching agent) in the last step. Accordingly all of the material limitations of claim 120 are taught.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0994.

February 24, 2004


Margaret Einsmann
Primary Examiner
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